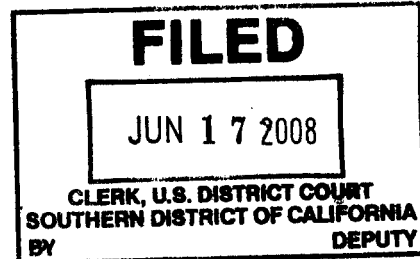


1 KAREN P. HEWITT  
2 United States Attorney  
3 W. MARK CONOVER  
4 Assistant United States Attorney  
5 California State Bar No. 236090  
6 United States Attorney's Office  
7 Federal Office Building  
8 880 Front Street, Room 6293  
9 San Diego, California 92101  
10 Telephone: (619) 557-5200

11 Attorneys for Plaintiff  
12 UNITED STATES OF AMERICA



13 UNITED STATES DISTRICT COURT  
14 SOUTHERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 v.

18 MICHAEL PAUL DITTMAN,

19 Defendant.

20 Magistrate Case No. 08MJ1739

21 **STIPULATION OF FACT AND JOINT**  
22 **MOTION FOR RELEASE OF**  
23 **MATERIAL WITNESS(ES) AND**  
24 **ORDER THEREON**

25 (Pre-Indictment Fast-Track Program)

26 IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES  
27 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and W. Mark  
28 Conover, Assistant United States Attorney, and defendant MICHAEL PAUL DITTMAN, by and  
through and with the advice and consent of Russell S. Babcock, counsel for defendant, that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing  
date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,  
intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead  
guilty to the pre-indictment information charging defendant with a non-mandatory minimum count  
of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii)  
and (v)(II).

//

WMC:jam:6/5/08

*Handwritten signature*

1           2. Defendant acknowledges receipt of a plea agreement in this case and agrees to  
2 provide the signed, original plea agreement to the Government not later than five business days  
3 before the disposition date set by the Court.

4           3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or  
5 before July 3, 2008.

6           4. The material witnesses, Juan Carlos Lopez-Santiago, Rubicelia Lopez-Mejia, and  
7 Silvia Hernandez-Luis, in this case:

8               a. Are aliens with no lawful right to enter or remain in the United States;

9               b. Entered or attempted to enter the United States illegally on or about  
10 June 1, 2008;

11              c. Were found in a vehicle driven by defendant near Jamul, California and that  
12 defendant knew or acted in reckless disregard of the fact that they were aliens with no lawful right  
13 to enter or remain in the United States;

14              d. Were paying or having others pay on their behalf an unknown amount of  
15 money to \$2,000 to others to be brought into the United States illegally and/or transported illegally  
16 to their destination therein; and,

17              e. May be released and remanded immediately to the Department of Homeland  
18 Security for return to their country of origin.

19           5. After the material witnesses are ordered released by the Court pursuant to this  
20 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any  
21 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,  
22 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

23               a. The stipulated facts set forth in paragraph 4 above shall be admitted as  
24 substantive evidence;

25               b. The United States may elicit hearsay testimony from arresting agents  
26 regarding any statements made by the material witness(es) provided in discovery, and such testimony  
27 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest

28 Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
United States v. Michael Paul Dittman

1 of (an) unavailable witness(es); and,

2 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),  
3 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted  
4 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant  
5 waives the right to confront and cross-examine the material witness(es) in this case.

6 6. By signing this stipulation and joint motion, defendant certifies that defendant has  
7 read it (or that it has been read to defendant in defendant's native language). Defendant certifies  
8 further that defendant has discussed the terms of this stipulation and joint motion with defense  
9 counsel and fully understands its meaning and effect.

10 Based on the foregoing, the parties jointly move the stipulation into evidence and for the  
11 immediate release and remand of the above-named material witness(es) to the Department of  
12 Homeland Security for return to their country of origin.

13 It is STIPULATED AND AGREED this date.

14 Respectfully submitted,

15 KAREN P. HEWITT  
16 United States Attorney

17 Dated: 6/6/08

18

19 Dated: 6/8/08

20

21 Dated: 6-8-08

22

23

24

25

26

27

28

W. MARK CONOVER  
Assistant United States Attorney

RUSSELL S. BABCOCK  
Defense Counsel for Michael Paul Dittman

MICHAEL PAUL DITTMAN  
Defendant

**ORDER**


Upon joint application and motion of the parties, and for good cause shown,

**THE STIPULATION** is admitted into evidence, and,

**IT IS ORDERED** that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

**SO ORDERED.**

Dated: 6/17/08

  
United States Magistrate Judge